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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,706	06/27/2003	Bettakeri Subraya Udayakumar	30056/39375	9691

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

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01/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/608,706	Applicant(s) UDAYAKUMAR ET AL.	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/15/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/15/07 have been fully considered but they are not persuasive. Applicant argues that in order for the polyhydric alcohol to be used as a lubricant, the polyhydric alcohol is required to have a high molecular weight and that Maurer teaches a polyhydric alcohol as a decrystalizer (col. 4, lines 59-64). Applicant argues in order for glycerin to be used as a decrystalizer as taught in Maurer, it would require a low molecular weight and would be contrary to its use as a lubricant. The applicant has provided a declaration filed 7/27/07 showing an additive of 3% glycerin has the same COF as 100% water in contrast to the present solution which significantly reduces the COF. The examiner suggested an amendment positively reciting a critical molecular weight or a showing by persuasive arguments and/or affidavit that the polyhydric alcohol in Maurer could not be used as a lubricant. However, a direct comparison of the closest prior art identified by the examiner would include a comparison of the same amount glycerine in Maurer with the lubricant (glycerin) in the claimed invention. The Declaration is insufficient to overcome the rejection of claims 1, 7, 8, and 9, as being anticipated by Maurer and claims 2-5 as being unpatentable over Maurer as the facts presented are not germane to the rejection at issue and the evidence is not commensurate with the scope of the claims. Applicant must compare the claimed subject matter with the closest prior art to be effective to rebut a *prima facie* case of obviousness. There is no showing that the objective evidence of

nonobviousness is commensurate in scope with the claims. See MPEP § 716. As such, the declaration is currently considered ineffective in overcoming the previous grounds of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Maurer USPN 6200939.

As to claims 1 and 7 Maurer teaches a lubricating deodorant for ostomy pouches comprising an aqueous solution (col. 5, line 32) containing both a water-soluble lubricating agent (col. 4, lines 59-65) capable of wetting and cling to interior wall surfaces of polymeric film materials of an ostomy pouch and a compatible water-soluble complexing agent capable of complexing and neutralizing odor-causing molecules in fecal matter (col. 5, lines 7-30).

As to claim 8, Maurer teaches the solution contains a pH adjuster or buffer (col. 5, lines 34-39).

As to claim 9, Maurer teaches the claimed percentages of lubricating agent and complexing agent (col. 5, lines 47-64).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer USPN 6200939. Maurer discloses the present invention substantially as claimed. However, Maurer does not disclose the complexing agent is a surfactant, but discloses a surfactant in addition to the complexing agent. It would have been obvious to one having ordinary skill in the art to incorporate the complexing agent and surfactant into one substance since forming into one substance what has previously been formed as two substance involves only routine skill in the art.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer USPN 6200939 in view of Ahmad et al. USPN 5885591. Maurer discloses the present invention substantially as claimed. However, Maurer does not disclose a polyhydric alcohol lubricating agent instead of a cellulose lubricating agent. Ahmad discloses both materials are comprise lubricating compositions (col. 2, lines 1-31).

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Therefore, because these two materials were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute polyhydric alcohol for a cellulose lubricant.

Allowable Subject Matter

7. Claims 10-14 are allowed. The primary reason for allowance is the prior art does not teach or provide motivation for treating the interior of the ostomy pouch with the claimed lubricating deodorant composition.

Conclusion


8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

January 7, 2008